

## LIVABLE DELAWARE ADVISORY COUNCIL MEETING

### MINUTES – MEETING OF MAY 10, 2002

The Livable Delaware Advisory Council held a meeting on Friday, May 10, 2002 at Delaware Technical & Community College Terry Campus, Dover, Delaware.

#### Council Members Present:

Lt. Governor, John Carney, Chair  
Rich Anthony  
Senator Patti Blevins  
Joe Corrado  
Sherry Freebery  
Nathan Hayward  
Randy Marvel  
Mike McDowell  
Robert McLeod  
Paul Morrill  
Marty Ross  
Representative Roger Roy  
Michael Scuse  
Bob Stickels  
Lee Ann Walling  
John Wik  
Rick Woodin

#### Others Present:

Charles Baker  
Karley Barnes  
Eileen Butler  
Representative Wally Caulk  
Stephen Cimo  
Council President Chris Coons  
Kevin F. Coyle  
Wendy Danner  
Leann Ferguson  
Jeff Flynn  
John Gaadt  
George Haggerty  
Marcus Henry  
Constance C. Holland  
Karen Horton  
Scott Kidner  
Emily Knearl  
Andrea Kreiner  
Steve LeFebvre  
Reed Macmillan  
Bill McGowan  
Michael McGrath  
Phyllis McKinley  
Bill Narcowich

Anita Puglisi  
Frank Sczuka  
Gary Warren

Absent:  
Peg Baunchalk  
Secretary Nick DiPasquale  
Dick Pryor

### TDR DISCUSSION

Mr. Carney called the meeting to order at 9:00 a.m. and changed the order of the agenda to address TDR's first. He noted that the Impact Fees Subcommittee did not get to meet this week, so the "draft" report was sent out yesterday.

Mr. Carney reviewed the charge from the Governor for their recommendation. The Council can recommend the legislation before it or other recommendations. He will try to reach consensus, where there is none, they will vote.

Ms. Walling reviewed the process for developing the legislation. The TDR subcommittee used facilitators and a consultant. The proposed bank will take until about '03 until it is ready for business. The scope of the legislation is about a few hundred acres/county/year.

Mr. John Gaadt walked the Council through the Guiding Principles developed by the subcommittee (handout). Mr. Carney asked when the hearing is on sending and receiving areas. Mr. Gaadt responded that the hearings take place when the TDR program is established and when sending and receiving areas are identified. There ensued a clarification discussion on the process of establishing TDR programs. There was also discussion about New Castle County, density bonuses, hearings, equity and concurrency.

Ms. Walling provided a summary of the proposed legislation (handout). Key feature is establishment of the TDR bank with a nine member board of directors. In order to obtain TDR's from the bank, a local government must grant an allowance of at least 50%. Counties and local governments would receive 10% of the proceeds from the sale of TDR units by the Board. The money must be used for public facilities and cannot supplant existing county/municipal funds or services.

### Consensus Agreements from Section by Section Review of the Legislation:

9131

- "cultural and historic lands" will be added to the listing of sensitive lands.
- There was a suggestion that sending areas be restricted to Rural Areas. There was consensus not to include such a restriction.

9132

- Add public hearings to definition of "Sending District" and "Receiving District".

9133(a)

- Chairs of the Open Space Council and the Aglands Preservation Foundation will be added as Board members.
- Appointments of board members identified in (a)2, (a)3 & (a)7 will be selected by the Governor based on nominations of 3 potential members by the organizations.
- Mr. Carney will note to the Governor that concerns were expressed regarding geographic makeup of the Board.
- The State Planning Coordinator will be changed to a “representative from the Cabinet Council on State Planning Issues, to be selected by the Governor.”
- The farmer board member will be changed to “farmer/landowner”.

9133(b)

- Change to 8 members for a quorum and that the majority of the board be required for actions (not a majority of the members present).
- Terms will be added for nominees.

9133(d)(4)

- To be deleted

9133(d)(9)

- Add that the Board can adopt guidelines to the section on agreements.

9133(e)

- Add “additional” and “but”

9135(b)

No consensus was reached regarding allowing the counties to collect transfer tax on TDR's. Mr. Carney will note to the Governor that the counties object to the lack of transfer tax.

9135©

- Will be changed to language in letter from Mr. Baker to Ms. Walling.

9136

Legal clarification will be obtained regarding the “notwithstanding” provision and whether or not that supercedes existing New Castle County law if they opt out of this program.

- 9136(1) & (2) will be combined and add “or in cooperation with another jurisdiction in the same county.”
- 9136(3) language will be added to clarify that there will be no effective downsizing from an area being designated as a sending district.
- 9136(4) Change to 43% and use by right.

9136©

- Change to use language in letter from Mr. Baker to Ms. Walling.

9136(d)

- Change to read “in an adopted Receiving District”.

9137(d)

- Add in the Open Space Council in all places the Aglands Preservation Foundation is in the section.
- Change “shall” to “may” in the last sentence.

9137(e)

- Add “and may not be used in a municipality unless by agreement between the municipality and the county or municipality in which the sending parcel is located.”

Mr. Carney asked if this is something that they cannot support. No one responded “no”.

#### NEXT MEETING

The Council will meet on Monday, May 13, 2002 at the Paradee Center, Dover from 1 p.m. until 3 p.m. The TDR discussion will be limited to 45 minutes.

#### ADJOURNMENT

The Council meeting adjourned at 3 p.m.

Respectfully submitted,

Andrea Kreiner